

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DAVID H. DEAN,
Plaintiff,

v.

LOWE'S HOME CENTERS, INC.,
Defendant.

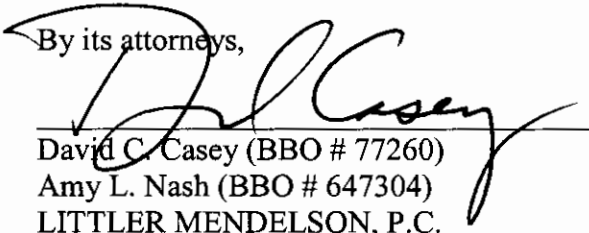
CA No. 04-12605-mel

MOTION FOR PROTECTIVE ORDER

Pursuant to Local Rule 37.1 and Federal Rule of Civil Procedure 26(c), defendant Lowe's Home Centers, Inc. ("Lowe's") moves for a protective order preventing plaintiff from taking the depositions of Frank Romano and Daniel Puccio, currently noticed for August 12, 2005. As grounds for this motion, Lowe's asserts that, in light of its June 6, 2005 motion for summary judgment, plaintiff has not and cannot demonstrate that discovery from Messrs. Romano or Puccio will elicit material facts creating a triable issue under Federal Rule of Civil Procedure 56(f). Further, the deposition notices are untimely because discovery closes on July 15, 2005. The grounds for Lowe's motion are set forth in more detail in its accompanying memorandum of law.

LOWE'S HOME CENTERS, INC.

By its attorneys,


David C. Casey (BBO # 77260)

Amy L. Nash (BBO # 647304)

LITTLER MENDELSON, P.C.

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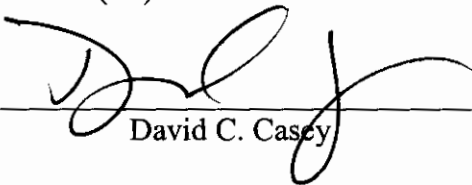
Boston, MA 02110

(617) 378-6000

Dated: July 12, 2005

CERTIFICATE UNDER LOCAL RULE 37.1

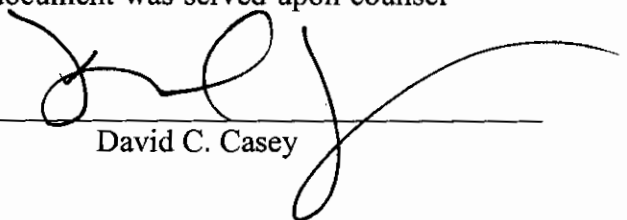
I hereby certify that the parties conferred to narrow the areas of disagreement to the greatest possible extent. On June 15, 2005, the undersigned, counsel for Lowe's, wrote Dean's counsel, Daniel Federico, to confer about the matters set forth in this motion and accompanying memorandum. In this letter, I asked Federico to point to specific facts that he expected to elicit in the depositions of Puccio or Romano that would be material to the issues raised in Lowe's motion for summary judgment. On June 17, 2005, attorney Federico replied by e-mail that he "can see no basis for the protective order since both proposed deponents are material witnesses (*sic*) to both counts of the complaint."



David C. Casey

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon counsel for the plaintiff by mail on this 12th day of July 2005.



David C. Casey